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In The

SUPREME COURT OF THE UNITED STATES

October Term, 1963

WILLIAM C. MARSHALL, BARNEY HOPKINS, AUGUST SCHOLLE, ALEXANDER D. FULLER and CHARLES A. ROGERS, **Appellants,** **vs** **JAMES M. HARE, Secretary of State of the State of Michigan,** **and** **FRANK D. BEADLE, JOHN W. FITZGERALD, and PAUL C. YOUNGER, Senators of the State of Michigan,** **and** **STANTON S. FAVILLE, Chief Assistant Attorney General of the State of Michigan,** **Appellees.**	**No. 962**

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

MOTION TO AFFIRM

STANTON S. FAVILLE
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ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

MOTION TO AFFIRM

Pursuant to Rule 16, paragraph 1(c) of the Revised Rules of this Court, Intervenor Faville moves that the judgment of the District Court be affirmed.

STATEMENT

This is a direct appeal from a final judgment dismissing on the merits plaintiffs' complaint which sought a determination that Article IV, sections 2-6 of the Constitution of the State of Michigan violates the 14th Amendment.

This Constitution was the product of the Constitutional Convention consisting of 144 delegates elected by the people of Michigan at an election held April 1, 1961. The convention convened October 3, 1961 and adjourned sine die August 1, 1962. The product of its work was accepted by the people at an election held April 1, 1963.

The challenged portion of the Michigan Constitution is contained in plaintiffs' jurisdictional statements Appendix D. With these provisions should be considered the provision for amendment and revision contained in Article XII, which we attach as our Appendix A.

The provisions for the Michigan legislature rather simply stated are:

1. The House of Representatives based upon population;

2. The Senate based upon area and population;

3. A districting of the State of Michigan after each decennial census by an apportionment commission consisting of four members from each of the major political parties existing in the state selected by the state organization of the parties with equal representation from each party;

4. A selection of a plan which complies most accurately with the constitutional requirements by a nonpartisan

elected Supreme Court if the politically selected apportionment commission fails to agree;

5. The preservation in the people of the power of revision or amendment of any provision of the Constitution.

The House of Representatives consists of 110 members elected for two years from single member districts apportioned on population. Each county containing .7 of 1% of the population of the State constitutes a separate representative area. Other counties are combined to form representative areas having not less than .7 of 1% of the population of the State. After the representative areas are formed, each is assigned one representative and the remainder of 110 representatives are distributed by applying the method of equal proportions.

The Senate of 38 members is elected from single member districts having terms of four years coinciding with the term of the Governor.

In districting for the Senate after each decennial census, each county is assigned apportionment factors equal to the sum of its percentage of the State's population computed to the nearest one-one hundredth of 1% multiplied by four and its percentage of the State's land area computed to the nearest one-one hundredth of 1%. Counties having 13[1] or more apportionment factors are placed in one class. Collectively they receive the number of senators as their total factors bear to the total number of factors. Each county in this class is assigned a senator, the balance being distributed by utilizing the method of equal proportions applied to apportionment factors.

---

[1]

The figure 13 is obtained by dividing total State factors (400 population, plus area 100, total 500) by the number of senators (38).

The counties having less than 13 apportionment factors are arranged into senatorial districts that are compact, convenient, contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 nor more than 16. Insofar as possible existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

In both the Senate and the House of Representatives, the counties having more than one legislator are divided into single senatorial or representative districts as the case may be, having population as nearly equal as may be but not less than 75% nor more than 125% of the number determined by dividing the population of the representative area by the number of legislators to which it is entitled. These districts are to follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly uniform or square in shape as possible.

The apportioning under these rules is to be done by a commission of eight commissioners who are selected on the basis of one from each of four designated regions of the state by the state organization Committee of each of the two political parties whose candidates for Governor received the highest vote at the last general election at which the Governor was elected preceding the apportionment.

The commission is supposed to district the State in accordance with the constitutional requirements. Should there be a failure to agree, each member individually or jointly with other members may submit a proposed plan to the Supreme Court which has the duty of selecting the plan which complies most accurately with constitutional requirements.[2]

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[2]

While not involved in this case, it may be worthy of note that the

The constitutional provisions were challenged by the plaintiff as being in violation of the 14th Amendment of the Constitution. No definitive plan has been adopted in Michigan so plaintiffs' challenge is on the basis that a plan cannot be drafted which will stand the test. The three judge district court after a hearing on the merits, at which no oral testimony was taken, upheld the constitutional provisions by a two-to-one vote.

ARGUMENT

EQUAL PROTECTION IN LEGISLATIVE APPORTIONMENT

Since any apportionment not based strictly upon population will produce variations in the number of persons represented by a legislator, it becomes pertinent to inquire whether the provisions which produce the variance have any substantial relationship to legitimate government objectives which are to be achieved by the apportionment. Phrased another way: What is the function of the legislature in a representative government?

> "The sovereign power of the state includes protection of the safety, health, morals, prosperity, comfort, convenience and welfare of the public, or any substantial part of the public."

---

commission has failed to agree, four plans have been submitted to the Supreme Court of Michigan and as yet no decision has been made. The Justices, however, released opinions, the first series being dated March 5, 1964, published in 372 Mich 418 (advance sheet part 4). The second series, released April 10, 1964, while not as yet published will, we are advised, be published at approximately the time this brief is filed. They will appear in Volume 372 Mich 461, et seq. (advance sheet part 5).

Cady v. City of Detroit, 289 Mich 499.

Followed in:

Peters v. Michigan State College, 320 Mich 243, 249;

Tower Realty, Inc. v. City of East Detroit, 196 F 2d 710.

See also:

New York City Housing Authority v. Muller, 270 NY 333;

United States v. Douglas-Willan Sartoris Co., 3 Wyo 287

We consider the following legal principles to be established:

1. "The exercise of the inherent police power of the state is vested in the legislative department." *People v. Piasecki*, 333 Mich 122.

2. "Tax exactions, property or excise, must rest upon legislative enactment, and collecting officers can only act within express authority conferred by law." *In re Dodge Brothers*, 241 Mich 665; *Garavaglia v. Department of Revenue*, 338 Mich 467.

3. "The power of eminent domain is inherent in state sovereignty. (citations omitted). Subject to constitutional restrictions, it is entirely under control of the legislature." *In re Petition of City of Detroit*, 308 Mich 480, 484.

There is a wide diversification between the counties of Michigan of such things as manufacturing, agriculture, the growing of fruits and crops, trades and occupations, geog-

raphy and demography, and similar items in which there is a localized interest.

To the end that legitimate objectives of government may be exercised by a legislature composed of members selected from districts in which interests are diverse and sometimes conflicting, we believe that the people may adopt a form of government which they conceive to be best suited for these purposes and which reasonably attains these ends.

THE PROVISIONS OF THE MICHIGAN CONSTITUTION FOR A LEGISLATURE PRESENT A REASONABLE PLAN FOR THE GOVERNMENT OF A FREE PEOPLE.

The people of Michigan in an election selected a new constitution for their self-government. The provisions of the constitution relating to the legislature were not intended by them as a model to be breathlessly awaited by others. They were simply tailored by the people of Michigan to meet the peculiar legislative needs of the people of Michigan in the orderly process of constitutional self-government.

We do not contend that the provisions of the Michigan constitution would be justified, say in Rhode Island or Delaware, nor, in fact, in any other state. Our position is that in Michigan these provisions are so reasonable and proper that they meet the standards set out by the Fourteenth Amendment.

The plan for the legislature consists of:

1. A House of Representatives based upon population;

2. A Senate based upon area and population;

3. A districting of the state after each decennial census by an apportionment commission consisting of four members from each of the major political parties existing in the state, selected by the state organizations of the parties, with equal representation for each party;

4. A selection of the plan which complies most accurately with the constitutional requirements by a non-partisan elected Supreme Court if the politically oriented apportionment commission fails to agree;

5. The reservation in the people of the power of revision or amendment of any provision of the constitution.

Intervening Senators' Exhibit IIA 4 Appendix III—included in the appendix of their motion to affirm shows that the House of Representatives may be districted on population. We have compiled a table, which is attached as Appendix B, listing 18 counties of the state in descending order of population. An examination of this appendix will demonstrate that each county on the list has the exact number of representatives to which it is entitled by population. In addition, the cumulative population entitlement of all of the counties is met as nearly as may be by their exact number of representatives through the eighth county and until the county of Kalamazoo (ninth county) is reached. From this point there is a disparity of one between the cumulative entitlement and actual number of representatives, until the county of St. Clair (fourteenth county) is reached, when the cumulative entitlement and exact number is again in balance.

Stopping here at the point where no county is entitled to more than one representative (after Bay County), we find that these larger counties entitled to two or more representatives are entitled in combination to 84.78 seats and that

they have 85 seats leaving the remaining 25 house seats to be distributed among the 68 smaller counties of the state of which 19 seats will ultimately be distributed among 62 counties.[3]

People, by count, are quite adequately and fairly represented in the House of Representatives.

The Senate portion of the Michigan plan for Michigan need is based upon the number of people along with area Michigan's upper peninsula contains less than 1/19 of the people of Michigan. It now appears that the entire upper peninsula must be joined with the eight counties in the two northerly tiers of counties in the lower peninsula in order to equalize the population among the 19 Michigan congressional districts.[4]

In the upper peninsula alone the distances are tremendous. Laying the upper peninsula city of Sault Ste. Marie at Detroit, the westernmost boundary of the upper peninsula would extend almost to Chicago, Illinois. Laying Menominee (in the upper peninsula) at the intersection of the

---

[3]

It is a fact that four plans were presented by members of the Apportionment Commission to the Supreme Court for its selection of the one most accurately complying with the provisions of the Constitution. Three of these plans followed the constitutional House of Representative requirement of 7/10 and county lines. In each of these plans the actual number of representatives allotted to the counties on the table (Appendix B) was identical with the table.

[4]

A proposed plan for the congressional districting of Michigan containing this provision was recently presented by the Governor of the State to the legislature following the decision in the case of Calkins v. Hare, determined in the United States District Court for the Eastern District of Michigan on March 27, 1964.

northerly Ohio line and US-127, the tip of the Keweenaw peninsula will extend northerly beyond Clare, Michigan.

To use another illustration: The westernmost point in the upper peninsula is on approximately the 90° meridian, while the easternmost tip is on the 84° meridian. If we drop south to the 40th parallel, these two meridians intersect close to Springfield, Illinois, on the west and Dayton, Ohio on the east. On the 36th parallel, the intersection is close to Knoxville, Tennessee on the east and is west of the Mississippi River on the west. We realize in dropping down to another degree of latitude, the distances become greater but we are certain that the court will make proper allowances for this.

While the distances are great, the means of travel are limited. With the sparsity of population in this area, the roads are not numerous, nor are the railroads and air travel between upper peninsula points is mostly by circuitous routes. Yet the people living in this area and their legitimate problems must be joined with those of the northerly two tiers of counties in the lower peninsula of Michigan to obtain two state senators on a strict population basis. The combined area of these two senatorial districts is 36.71% of the entire state.

Going one step further and creating another senatorial district, we find that a line extending along the lower line of the counties of Mason, Lake, Osceola, Clare and Gladwin, and excluding the counties of Lake and Arenac, would be the southern boundary of a third possible senatorial district. We have now covered half of the area of the state, 52.44% to be exact.[5]

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[5] The figures used in this compilation are taken from plaintiff's Exhibit D which was attached to his bill of complaint.

The area in these three senatorial districts supports many space demanding pursuits, such as lumbering, mining and recreation of numerous kinds. These are all legitimate, proper subjects of legislative action both in regulation under the police power and by fostering their lawful pursuits. In general, the people of this portion of the state are not so prosperous as are the people located in other portions of the state where fortune has been kinder. Their welfare, which is a legitimate subject for legislative action, may be improved properly through legislative action.

During the recent argument of the case of *Lucas v. 44th General Assembly of the State of Colorado*, Mr. Justice White observed:

> "Certainly, no matter how you slice up the state, everybody will be represented."

Mr. Zarlengo replied:

> "However, if you apportion both Houses on a strict population basis, the interest of certain areas will not be represented at all."

Mr. Justice White then replied:

> "Your real point is not representation, but effective representation."

The Chief Justice also observed:

> "Isn't the basic issue whether these appellants and all other people in the state of Colorado have proper representation, whether they are city people or farmers, liberals or conservatives, or whatever?"

Mr. Justice Goldberg inquired:

> "Why is it assumed that if both Houses were on a population basis, and the urban majority had a majority in both houses, it would be less solicitous of the people as a whole than the rural minority?
>
> "What I don't follow is the argument that the need to safeguard the interest of the rural areas, but not urban, justifies discrimination in weighting the votes."

In one sense, to represent is to serve for another. People speak of their "representative" in a legislative body, knowing that he is there to serve the constituency from which he was elected. Historically and factually, this has been the relationship between the people and the members of the legislative branch of state government. There is no independence of local affairs in the function of a legislature.

The Chief Justice of the Michigan Supreme Court in writing the opinion in the case of *The People ex rel. Royce v. Goodwin*, 22 Mich. 496, recognized the distinction between the legislative and judicial branches when he said:

> "Judges differ from all other public servants in having no representative duties. The judicial department of every civilized government is one of the three coordinate parts of the sovereignty which acts for the state in expounding the laws and enactments in which the other departments have acted for the people as legislators and the approvers of legislation. It represents only the law by which the people have, by their proper agents, bound themselves."
>
> (p. 499)

Willingness to serve and ability to perform are not the sole criteria for testing adequate representation. If legislative representation is to be effective and meaningful there must be a link of responsibility to the "people back home." It is a demonstrable axiom that opportunity for direct communication by the people with their state representative lessens as population decreases and area increases. Any representative of an urban center can readily ascertain the views and needs of his constituents by reading the daily metropolitan press, by radio, by public assembly and by personal interview. But these media of communication weaken perceptibly in rural districts where distances are great, where there is no local daily paper, where there is no focal point for public assembly, and where personal interview occurs on the farm or at the rural store. Where representation is based on population the number of representatives are obviously greater to serve the compacted populace of a metropolitan area. These conditions make for effective representation. But unless an adjustment is made, representation based on population in thinly settled rural areas may become so dissipated as to be ineffectual and totally without vitality. Good representation makes for good government. To obtain good representation it is necessary that there be a reasonable opportunity to communicate between the people and their representative and a reasonable plan of representation which assigns an adequate number of legislative seats to all areas of a state in order that the views and needs of the people can be readily ascertained.

Keeping of legislative districts at a size sufficiently small to permit a legislator, through communication with his constituents or otherwise, to keep familiar with particular interests and problems of his district is essential to effective representation. The lack of such familiarity cannot be supplied or replaced by a sympathetic attitude upon the part of a legislative body. Unless a legislator can be kept

cognizant of the needs of his own district so as to be able to initiate required legislation, there is necessarily a lack of effective representation.

We believe that the weighting of votes in one house of the legislature as provided in Michigan's new constitution is necessary to give to the people of this area covering all of the upper peninsula and a portion of the lower peninsula the effective representation to which they are entitled and on balance cannot be said to discriminate invidiously against anyone or any section.

The balance of the plan is aimed at the prevention of political maneuver by a body which may be more interested in preserving the status quo than in a fair districting. Quite strict rules are set forth in the constitution to enable the apportionment commission to develop a fair plan of districting. Selecting the members of the commission from the two political parties now dominant in the state has for its purpose the insuring that districting will not be done for the advantage or disadvantage of one political party or the other. It is well adapted to meet that end if the members of the commission have for their objective—good government and fair treatment.

However, should the politicians on the apportionment commission engage in political dallying, the non-partisan elected Supreme Court has been selected by the people as their last best hope of getting the machinery of government off dead center. If all these fail through initiatory processes the people of Michigan have sufficient control by amending the Constitution to insure that a representative government will be continued.

Such is the plan. We submit that it contains nothing invidious but is a proper, reasonable plan for the legislative branch of the government of Michigan.

THE SENATE

The Michigan Senate, viewed alone, presents no case of invidious discrimination. While we believe that the provisions relating to the composition of the legislature should be considered as a whole in making a determination on their reasonableness, the Senate provisions, standing alone, are defensible. The provisions set forth in Article IV, section 2 of the Michigan Constitution of 1963, have been misinterpreted by the appellants who choose to disregard the familiar rule that if two constructions are possible that which will sustain the constitutionality must be selected. The appellants chose to select as of prime importance the sentence: "Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards."

By taking this as the first mandate to the apportionment commission, appellants seek to bring the case within the decision of *Scholle v. Hare*, 367 Mich 176, and render the plan unconstitutional on the basis of that decision. The sentence selected is enumerated last of all the standards set in the Constitution for senatorial districts. In addition to this, it was the subject of explanation by Dr. John A. Hannah, who served the Constitutional Convention as chairman of the Committee on Legislative Organization. Dr. Hannah said:

> "Just one final point. The point that Dr. Pollock makes against this proposal as a weakness I think is its strength. I think that it isn't in the best interests of the people of the state to redistrict just for the exercise of redistricting. People become accustomed to being a part of a senatorial district. If you elect a senator from a senatorial district, if population changes

dictate that there is sufficient inequity to warrant it, then of course whatever districting is required should be engaged in. But unless you put in the proviso that you stick to the present districts insofar as possible, so far as they meet the formula requirements, then you face the possibility that a whimsical apportionment commission, just for the exercise of doing something, can totally disregard what you have and draw totally new districts, make a great many counties come into different districts than they need to come into, unseat senators that need not be unseated."

Constitutional Convention
1961, Official Record, Vol II,
page 2094

Similarly, evil is sought to be made out of the not less than 75% nor more than 125% provision, which appears in both the Senate and House of Representatives sections of the Constitution and relates to the division of counties into districts. The argument here likewise disregards the plain requirement of the Constitutional language. Dr. John A. Hannah, addressing the convention on this point, stated:

"Mr. Chairman and members of the committee, I would remind you that when we began consideration of this proposal there were 2 committee amendments adopted and one of them was adopted to line 23 when the words were inserted 'of any district shall be . . .' and the new words 'as nearly equal as possible but not less than 75 per cent nor more than 125 per cent . . .' All previous comments to the contrary, the committee started with the conviction that these districts within the county should be as nearly equal as possible. And then it consulted with election officials in the various counties, middle sized counties and particularly Wayne

county, and they emphasized over and over again the importance of putting into this constitution provisions that made it possible to come up with representative and congressional districts that would fit into the usual and logical patterns used in conducting elections.

"The committee very carefully went into this and started with the notion that limitation should be as nearly 100 as possible. Ideally every district in Wayne county would be identical. Actually, as you will note from your green book, at the moment—you are talking about senatorial districts in Wayne County—at the moment, they run from 246,000 to 647,000 people, with some districts almost 3 times as large as others. Obviously that is undesirable. The same thing is true in Kent county, where the 2 present districts are quite different in size. That is why there is in the proposal that you have already approved, Committee Proposal 79, the requirement that all of the counties with more than one senatorial district be redistricted by the reapportionment commission, in accordance with the formula.

"The committee faced the same necessity that you face: how closely can you do it and still come up with something that is practical, and on the advice of the election people, looking at the actual tract figures, with the population shown for every census tract, it became obvious that to be practical and to stay with city and township and the usual lines, about 75 to 125—you are going to do pretty well if they stay within those limits. But that doesn't mean they shall vary that far, because you have already put in the language so that 'the population of any district shall be as nearly equal as possible but not less than 75 per cent nor more than

125. . . .' If they can make it 100 per cent exactly, that is what they should do."

Constitutional Convention 1961,
Official Record, Vol II, page 2116.

The reasoning that applied to 75—125 dictated the 10—16 tolerance in the number of factors allowed in senatorial districts consisting of more than one county. Delegate William F. Hanna said:

"Mr. Chairman, Mr. Downs, the figure 10 or more than 16 was an attempt to apply to the 13 apportionment factors the same rationale that is applied in the third paragraph of section a and the first numbered paragraph of section b: 75 per cent of 13 is 9.75, computed to the nearest apportionment factor, is 10 points; 125 per cent of 13 apportionment factors, computed to the nearest apportionment fact, is 16. This is the way it was arrived at."

Constitutional Convention 1961,
Official Record, Vol II, page 2104.

These provisions therefore have for their purpose the attainment of a feasible apportionment plan, together with placing reasonable restrictions on the power of the apportionment commission to deviate from the norm of strict quality. The provisions for the Senate set guidelines for a body based on a formula which by balancing area and population allows effective representation for all of the people. The built in formula controls senatorial representation under future population trends and prevents gerrymandering.

CONCLUSION

We respectfully submit that the plaintiffs appeal presents no information warranting plenary review by this court. The judgment of the three-judge District Court should be affirmed.

Respectfully submitted,

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APPENDICES

APPENDIX A

ARTICLE XII

Amendment and Revision

Amendment by legislative proposal and vote of electors.

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Amendment by petition and vote of electors.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and

circulated in such a manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Submission of proposal; publication.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

Ballot, statement of purpose.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

Approval of proposal, effective date; conflicting amendments.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part

of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

General revision of constitution; submission of question, convention delegates and meeting.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

Convention officers, rules, membership, personnel, publications.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix

their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

Submission of proposed constitution or amendment.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

APPENDIX B

Table

County	*% of total population*	*Theoretical Entitlement (% of total Population x 110 seats)*	*Actual Seats Allocated*	*Cumulative Theoretical Entitlement*	*Cumulative Actual Seats Allocated*
Wayne	34.08	37.49	37		
Oakland	8.83	9.71	10	47.20	47
Macomb	5.19	5.71	6	52.91	53
Genesee	4.78	5.26	5	58.17	58
Kent	4.64	5.10	5	63.27	63
Ingham	2.70	2.97	3	66.24	66
Saginaw	2.44	2.68	3	68.92	69
Washtenaw	2.20	2.42	2	71.34	71
Kalamazoo	2.17	2.39	2	73.73	73
Muskegon	1.92	2.11	2	75.84	75
Berrien	1.92	2.11	2	77.95	77
Calhoun	1.77	1.95	2	79.90	79
Jackson	1.69	1.86	2	81.76	81
St. Clair	1.37	1.51	2	83.27	83
Bay	1.37	1.51	2	84.78	85
Monroe	1.29	1.42	1	86.20	86
Ottawa	1.26	1.39	1	87.59	87
Lenawee	.99	1.09	1	88.68	88
Allegan	.74	.81	1	89.49	89
Marquette	.72	.79	1	90.28	90
Van Buren	.62	.68	1	90.96	91